



July 17, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St, SW
Washington DC 20024

Sent via overnight mail

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338

Choice One Communications Inc. ("Choice One") supports the comments filed today (July 17, 2002) by the Association for Local Telecommunications Services ("ALTS") and various competitive local exchange carriers ("CLECs") in the above mentioned docket.

I. UNE AVAILABILITY

In paraphrasing what is so eloquently stated in the ALTS Reply Comments ("ALTS Reply Comments"), CLECs such as Choice One require ILECs to provide Unbundled Network Elements ("UNEs") in order to provide quality, competitive services to end users. Choice One's business plan has been predicated from its inception on the existence and availability of UNEs at fair and reasonable rates, delivered in fair and reasonable time intervals comparable with ILEC's own retail service. Changing such rules in the middle of the game at such a crucial point in this stage of development of the competitive telecommunications industry would be patently unfair to the stakeholders

(clients, colleagues, investors, vendors) of Choice One and all CLECs whose existence depends on the availability of UNEs.

Choice One also agrees that new UNE combinations need to be made available, again at fair and reasonable rates and delivered in fair and reasonable time intervals, comparable with ILEC retail service. Without this guarantee, CLECs will not be able to correctly plan the development of new innovative products or products that directly compete with those already introduced by ILECs.

NO FACILITIES

"No facilities" or UNE loop availability issues continue to harm and significantly frustrate our ability to do business and bring the benefits of competition to requesting end users. It is conservatively estimated that one out of every three UNE T-1 orders placed by Choice One in New York is rejected due to "no facilities available". We have (unsuccessfully, thus far) worked with ILECs at the state level to resolve the issue. The responses typically provided by ILECs are of the "boilerplate" variety – repeatedly stating that they are not obligated to construct facilities for UNE T1s. We disagree with this boilerplate response and agree with ALTS:

(CLECs) are not requesting ILECs to build an as yet "unbuilt superior network," but instead request that ILECs undertake the placement, augmentation, modification and replacement of facilities that the ILECs provide to their own special access, DS-1, DS3, OCN and other customers, and which is routine in the existing ILEC networks. Thus, CLECs are not seeking a superior network, but nondiscriminatory unbundled access to the existing network as required by 251(c)(3).¹

Choice One will continue our work at a state level, directly with ILECs whenever possible. However, we feel strongly that a policy in line with that described in the ALTS

¹ ALTS Reply Comments, July 17, 2002.

comments must be implemented to establish the level playing field that the 1996 Telecommunications Act intended to create.

II. ILEC DOMINANCE

In the ALTS Reply comments, a quote is cited that was originally attributed to the FCC (*UNE Remand Order* at ¶ 86) "...the incumbent LECs still enjoy cost advantages and superiority of economies of scale, scope and ubiquity as a result of their historic, government-sanctioned monopolies". Earlier this week, Dr. Mark Cooper of the Consumer Federation of America re-affirmed this statement in a press release where he stated, "it is the competitors and new entrants who are in crisis, while the incumbent monopolists are generally in good shape." To add insult to injury, decreasing stock valuations and forecasts of impending doom regularly cloud analysts' discussions of the future of the telecommunications industry – regulatory uncertainty and lack of access to capital are regularly cited as barriers to recovery and further development of competition. The ALTS Reply comments and the recommendations contained therein provide a thorough examination of the issues and realistic ways of approaching them.

Choice One urges the Commission to adhere to its visionary pro-competitive policies, and thoroughly review and implement the comments of ALTS in this proceeding. This is necessary to have regulatory safety and support, as the ALTS comments present, since legitimate and fundamental challenges await CLECs in today's severe business climate. The ALTS comments provide realistic recommendations for the Commission regarding how to react to help preserve and protect the competitive environment which will benefit the residential and business consumers of telecommunications services in the United States.

If further comments are requested in the course of this proceeding, Choice One respectfully reserves the right to provide additional information. Choice One respectfully urges the Commission to adopt the recommendations set forth in the ALTS comments and Reply comments.

Sincerely yours,

David A. Fitts
Director- Regulatory Affairs

cc: John Windhausen (ALTS)
Jonathan Askin (ALTS)